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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,804	01/03/2002	Gary W. Mize	MIZE-003	9157
7590	09/23/2004		EXAMINER	
Michael S. Neustel Suite No. 4 2534 South University Drive Fargo, ND 58103			CHORBAJI, MONZER R	
			ART UNIT	PAPER NUMBER
				1744

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/039,804	Applicant(s) MIZE ET AL.
	Examiner MONZER R CHORBAJI	Art Unit 1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 January 2002.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 January 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4-5, 8 and 10-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Stemmle (Pub. N. US 2003/0132279).

With respect to claims 1 and 12, the ('279) reference discloses a method and an apparatus for decontaminating mail (col.1, lines 1-4) including the following: depositing mail in an enclosure (col.7, paragraph 0056, lines 5-60) having a bio-safe device to perform a cycle resulting in destroying biological agents (figure 4B, 475, 473, 479, 477, 476 and 478) covering the mail with a chemical decontaminant (col.9, paragraph 0067, lines 4-6) in order to destroy biological agents and removing mail from the enclosure (col.8, paragraph 0064, lines 1-2).

With respect to claims 2, 4-5, 8, 10-11 and 13, the ('279) reference teaches the following: the enclosure includes a resident mailbox (figure 1A), mail is covered by a misted form or a fog form of the decontaminant (col.5, paragraph 0072, lines 4-6), chemical decontaminant includes a mixture of bleach and water (col.9, paragraph 0067, lines 4-6), biological agents include Bacillus anthraces (col.1, paragraph 0004, lines 1-

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4), drying residual decontaminant (col.10, paragraph 0074, lines 7-9) and removing airborne decontaminant after destroying biological agents in the enclosure (figure 5, 534) and depositing cross-contaminated mail in the enclosure (contaminated mail pieces have inherently been passed from one person to another).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 14-15, 17-18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmle (Pub. N. US 2003/0132279) in view of Dhaemers (U.S.P.N. 5,369,892) and further in view of Sheldon (U.S.P.N. 5,813,749).

The teachings of the ('279) reference have previously been set forth with respect to claims 1-2, 4-5, 8 and 10-13. With respect to claims 14-15, 17-18 and 20, the ('279) reference teaches the following: a controller (col.5, paragraph 0039, line 6), a control panel (figure 5, 550), a pump (col.10, paragraph 0071, lines 8-10), a first fan (col.6, paragraph 0046, lines 1-4), indicator lights (figure 4B, 478), door switch (col.5, paragraph 0044, lines 1-12), valve to control the flow of compressed gas or aerosol (col.9, paragraph 0071, lines 1-7 such that the use of a valve is inherent in order to control the amount of the decontaminant applied), first fan and second fan are the same fan (col.6, paragraph 0046, lines 1-4), biological agents include Bacillus anthraces (col.1, paragraph 0004, lines 1-4) and indicator lights to signal that the system is functional and the bio-safe device is engaged in a treatment cycle and the decontaminant level is low (col.4, paragraph 0038, lines 1-7, col.5, paragraph 0044, lines 1-7). However, with respect to claims 14 and 21-22, the ('279) reference fails to teach the following: a second fan, a rechargeable battery to power the bio-safe device and the use of a solar panel to provide power to operate the bio-device and charge the battery. With respect to claims 14 and 21-22, the ('892) reference, which is in the art of drying articles, teaches the use of a second fan (col.2, lines 17-31), but fails to teach the

use of a rechargeable battery to power the bio-safe device and the use of a solar panel to provide power to operate the bio-device and charge the battery. With respect to claims 14 and 21-22, the ('749) reference teaches the use of a rechargeable battery (figure 1, 7) and the use of a solar panel (figure 1, 8). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the ('279) reference to include rechargeable batteries and a solar panel as taught by the ('749) reference in order to allow a person to view the contents of the mailbox during darkness (col.1, lines 5-9).

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmle (Pub. N.US 2003/0132279) in view of Hitachi (JP 10246710).

The teachings of the ('279) reference have previously been set forth with respect to claims 1-2, 4-5, 8 and 10-13. With respect to claim 3, the ('297) reference fails to teach the concept of shifting the mail, however; the ('710) reference, which is in the art of handling mailpeices, teaches shifting parcels (abstract text, lines 11-18). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of the ('279) reference to include a mail shifting step as taught by the ('710) reference in order to have a complete exposure of the parcel (abstract text, lines 14-16).

8. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmle (Pub. N.US 2003/0132279) in view of Hartman (U.S.P.N. 4,005,027)

The teachings of the ('279) reference have previously been set forth with respect to claims 1-2, 4-5, 8 and 10-13. With respect to claims 6-7, the ('297) reference fails to

provide the chemical make for bleach, however; the ('027) reference, which is in the art of designing disinfectants, teaches that the concentration of bleach ranges from 0.2% to about 5% (col.2, lines 50-53) and the use of a stable bleach and water (col.2, lines 52-53). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of the ('279) reference to include the use of a stable bleach as taught by the ('027) reference since bleach-stable surfactants are especially resistant to hypochlorite oxidation (col.6, lines 58-59).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmle (Pub. N.US 2003/0132279) in view of Dey (EP 0 556 521 A).

The teachings of the ('279) reference have previously been set forth with respect to claims 1-2, 4-5, 8 and 10-13. With respect to claim 9, the ('297) reference fails to disclose the group of the biological agents recited in claim 9. However, the ('521) reference, which is in the art of designing disinfectants, teaches that Mycobacterium tuberculosis is inactivated using a disinfectant composition containing bleach (example 2 on page 5). Thus, it would have been obvious to one having ordinary skill in the art to modify the method of the ('279) reference to include Mycobacterium tuberculosis as taught by the ('521) reference since bleach inactivates such a biological agent (page 8, lines 17-19).

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmle (Pub. N. US 2003/0132279) in view of Dhaemers (U.S.P.N. 5,369,892) and further in view of Sheldon (U.S.P.N. 5,813,749) and Hitachi (JP 10246710).

The teachings of the ('279) reference have previously been set forth with respect to claims 1-2, 4-5, 8 and 10-13. With respect to claim 16, the ('297) reference, the ('892) reference and the ('749) reference fail to teach the concept of using an agitator to shift the mail, however; the ('710) reference, which is in the art of handling mailpeices, teaches shifting parcels (abstract text, lines 11-18) by using agitator (figure 1, 1C). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of the ('279) reference to include a mail agitator as taught by the ('710) reference in order to have a complete exposure of the parcel (abstract text, lines 14-16).

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmle (Pub. N. US 2003/0132279) in view of Dhaemers (U.S.P.N. 5,369,892) and further in view of Sheldon (U.S.P.N. 5,813,749) and Dey (EP 0 556 521.A).

The teachings of the ('279) reference have previously been set forth with respect to claims 1-2, 4-5, 8 and 10-13. With respect to claim 19, the ('297) reference, the ('892) reference and the ('749) reference fail to disclose the group of the biological agents recited in claim 19. However, the ('521) reference, which is in the art of designing disinfectants, teaches that *Mycobacterium tuberculosis* is inactivated using a disinfectant composition containing bleach (example 2 on page 5). Thus, it would have been obvious to one having ordinary skill in the art to modify the apparatus of the ('279) reference to include *Mycobacterium tuberculosis* as taught by the ('521) reference since bleach inactivates such a biological agent (page 8, lines 17-19).

Conclusion

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 6:30-3:00.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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